

Message Text

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ACTION EB-03

INFO OCT-01 ARA-10 ISO-00 SS-14 NSC-07 L-02 STR-01 DOTE-00

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FM AMEMBASSY SAN SALVADOR

TO SECSTATE WASHDC IMMEDIATE 6547

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C O R R E C T E D C O P Y (LIMDIS CAPTION DELETED)

E.O. 11652 - N/A

TAGS: ELTN, EINV, BEXP, ES

SUBJECT: IRCA - GOES TAKES OVER IRCA

REF: SAN SALVADOR 3977

1. IRCA ATTORNEY TRIGUEROS CALLED ON COMMERCIAL ATTACHE EVENING THURSDAY OCT 3 TO SAY THAT GOES HAD WAIVED SCHEDULED 4:00 PM CEREMONY OF RAILROAD'S TAKEOVER AND HAD SIMPLY SENT IN TEAM OF CEPA (PORT AUTHORITY) EMPLOYEES ACCOMPANIED BY A REPRESENTATIVE OF FINANCE MINISTRY AND PURSUANT TO EXECUTIVE DECREE NO 89 OF OCT 3, 1974 TAKEN OVER IRCA'S "OPERATION, ADMINISTRATION AND MANAGEMENT." HE ADDED THAT LEGISLATIVE ASSEMBLY HAD SUMARILY APPROVED THE DECREE EARLIER IN THE DAY AND/CONSEQUENTLY, IRCA CANNOT BRING LEGAL ACTION BECAUSE, ACCORDING TO EL SALVADOR'S LAW, THE LEGISLATURE'S DECISIONS ARE "UNASSAILABLE BY THE JUDICIARY SINCE THEY REPRESENT THE WILL OF THE PEOPLE." THE WHOLE PROCESS OF LEGISLATIVE CONSIDERATION AND APPROVAL OF THE DECREE, WHICH NORMALLY SHOULD HAVE TAKEN SEVERAL WEEKS - ACCORDING TO DR. TRIGUEROS, WAS DISPATCHED IN LESS THAN FOUR HOURS, FOLLOWED BY A PRESS CONFERENCE BY GOES OFFICIALS INVOLVED - MINISTRIES OF LIMITED OFFICIAL USE

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ECONOMY, FINANCE, INTERIOR, CEPA AND CONAPLAN -- TIMED TO COINCIDE

WITH THE ANNOUNCEMENT OF APPROVAL. DR TRIGUEROS REPORTED THAT DURING HIS MORNING CONVERSATION WITH PRESIDENT MOLINA, AND IN REPLY TO HIS (TRIGUEROS) COMMENT THAT IRCA'S TAKEOVER MIGHT BRING PROBLEMS WITH THE US, THE PRESIDENT SAID HE "DIDN'T MIND THAT."

2. TODAY'S (OCTOBER 4) PRESS PUBLISHES SIMILAR REPORTS OF THE REASONS FOR IRCA'S TAKEOVER, INCLUDING ASSERTIONS OF ALLEGED VIOLATION OF SALVADORAN LAWS THROUGH "ILLEGAL CAPITAL FLIGHT AMOUNTING TO COLONES FIVE MILLION OVER THE LAST FEW YEARS, NON-PAYMENT TO GOM OF MONIES APPROVED BY GOES FOR THAT PURPOSE, OBSTRUCTION OF THE ROLE OF THE "INTERVENTOR AND HIS TEAM." THE PRESS REPORTS THAT IRCA WILL HENCEFORTH BE CALLED "FERROCARRIL NACIONAL DE EL SALVADOR" AND THAT CEPA'S BUDGET HAS BEEN INCREASED BY THE ASSEMBLY TO HANDLE THE RAILROAD'S "BAD DEBT AND OPERATIONAL SITUATION." IT ALSO REPORTS THAT IRCA EMPLOYEES WILL NOT SUFFER FROM THE CHANGEOVER, I.E., THAT IRCA'S WAGE STRUCTURE, CONSIDERABLY HIGHER THAN THAT OF THE EXISTING STATE RAILROAD, FES, WON'T'S BE CHANGED.

3. DR TRIGUEROS, WHO WILL BE IN MIAMI TODAY, OCTOBER 4, TELEPHONED THE COMMERCIAL ATTACHE LATE LAST NIGHT AT HIS RESIDENCE TO SAY THAT HE WOULD CALL IRCA'S PRESIDENT WEBER FROM THERE TO BRIEF HIM ON THE SITUATION.

4. COMMENT: OUR PRELIMINARY REVIEW OF DECREE 89 AND THE DRAFT OF THE ANNOUNCEMENT GIVING THE GOES RATIONALE WHICH IT INTENDED TO PUBLISH IN THE US PRESS REVEALS TWO MAJOR CONSIDERATIONS WHICH ARE LIKELY TO BE CONTESTED BY IRCA:

A. IRCA'S CONCESSION PROVIDED THAT AT THE END OF ITS 99 YEAR TERM (I.E. IN 2009), THE RAILROAD, WHARF AND ALL THEIR ADJUNCTS AND DEPENDENCIES WOULD BE TRANSFERRED IN GOOD CONDITION TO THE STATE WITHOUT COMPENSATION OR INDEMNITY OF ANY SORT. ARTICLE 2 OF DECREE 89 CONTENDS THAT THE RESCISION# OF THE CONCESSION AT THE PRESENT TIME (AFTER ONLY 64 YEARS) HAS THE SAME EFFECT, INsofar AS THE TRANSFER OF IRCA'S ASSETS TO THE STATE ARE CONCERNED, AS WOULD HAVE BEEN THE CASE IF CONCESSION HAD RUN ITS FULL TERMS OF 99 YEARS. B) THE GOES CONTENTS THAT IRCA IS VIRTUALLY BANKRUPT AND, BY IMPLICATION, THAT IRCA'S PRESENT LIMITED OFFICIAL USE

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LIABILITIES WHICH THE STATE HAS NOW ASSUMED - INCLUDING IRCA'S UNPAID DEBTS, EXCEED A FAIR EVALUATION OF IRCA'S ASSETS WHICH HAVE BEEN TRANSFERRED TO THE STATE UNDER DECREE 89. CAMPBELL.

NOTE: LIMDIS CAPTION DELETED PER MR. WACKERBARTH (ARA) 10/8/74.

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